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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,359	06/23/2003	Richard H. Davidson	LIT-021	7098
7590 08/20/2007 Arnold D. Litt Herten Burstein Sheridan Cevasco Bottinelli & Litt Court Plaza North 25 Main Street Hackensack, NJ 07601			EXAMINER AIRAPETIAN, MILA	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 08/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/600,359

Applicant(s)

DAVIDSON ET AL.

Examiner

Mila Airapetian

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's amendment received on 06/06/2007 is acknowledged and entered. The applicant has amended claim 1. Currently, claims 1, 6, 11-13 are pending for examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyden et al. (US 2002/0082733) in view of Jelen et al. (US 6,129,276).

Claim 1. Boyden et al. (Boyden) teaches a system for flavor processing, comprising:

a plurality of consumer workstations linked to a central processing hub (accessing the manufacturer's website over the Internet indicates ability for a plurality of customers to access said website, [0017]);

Art Unit: 3625

the central processing hub (manufacturer's website) including means for providing consumers with information regarding flavors, the means for providing including a flavor selection system through which a consumer may identify desired flavor based upon a series of input criteria [0018]; wherein the criteria include flavor descriptors, and usage categories are selected from the group consisting of bakery, dairy, beverage, confections and oral care [0015], [0016];

said flavor selection system includes means for selecting available flavors via flavor descriptors and flavor definitions [0015], [0016].

Boyden does not teach that said system includes a flavor search system which is associated with the central processing hub, said flavor search system including means for searching available flavors based upon flavor descriptors, flavor legal status and usage categories, and providing a search results list of available flavors fulfilling the flavor descriptor, flavor legal status and usage category requirements.

Jelen et al. (Jelen) teaches a system which includes a searchable database which is associated with the server (hub), wherein a user can specify search terms for the type of ingredients in order to find a desired recipe (col. 12, lines 51-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boyden to include a searchable database, as disclosed in Jelen, because it would advantageously provide a low-cost, easy-to-use mechanism by which purchases may be selected and a list of purchase items generated, as specifically taught by Jelen (col. 2, lines 27-30).

Art Unit: 3625

Boyden and Jelen does not teach that said means for searching available flavors include means for searching flavor legal status chosen from the group consisting of artificial, natural and artificial, natural flavor, natural type and natural WONF.

However, it is old and well known that the flavor can be selected from the group consisting of natural flavors, artificial flavors (for example, US 4,822,597, col. 8, lines 1-4; US 2004/0265472, page 14, claim 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boyden and Jelen to include means for searching flavor legal status chosen from the group consisting of artificial, natural and artificial, natural flavor, natural type and natural WONF, because it would advantageously provide for a wider choice and less expensive product.

Claim 6. Said system wherein the criteria further includes solubility of the flavor (physical form such as water-soluble) [0016].

Claim 11. Said system wherein the means for providing also including means for permitting a user to select the preparation of a custom flavor [0015]; [0016].

Claim 12. Said system wherein the consumer workstations and the central processing hub are connected via the Internet [0015].

Claim 13. Said system further including means for providing general information regarding flavors (flavor type, end use, price) [0016].

Response to Arguments

Applicant's arguments filed 06/06/2007 have been fully considered but they are not persuasive.

In response to Applicant's argument that the prior art does not teach a flavor search system that includes means for searching available flavors based upon flavor descriptors, flavor legal status and usage categories and providing a search results list of available flavors fulfilling the flavor descriptor, flavor legal status and usage category requirements, it is noted that Jelen teaches a system which includes a searchable database which is associated with the server (hub), wherein a user can specify search terms for the type of ingredients in order to find a desired recipe (col. 12, lines 51-60). As per "searching available flavors based upon flavor descriptors, flavor legal status and usage categories" feature, it is old and well known that the flavor can be selected from the group consisting of natural flavors, artificial flavors (for example, US 4,822,597, col. 8, lines 1-4; US 2004/0265472, page 14, claim 2).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3625

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mila Airapetian whose telephone number is (571) 272-3202. The examiner can normally be reached on Monday-Friday 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a long horizontal stroke extending to the right.

Mark Fadok

Primary Examiner